



MATTHEW KRAUS
Direct Dial: (212) 785-0757
mkraus@chartwelllaw.com

One Battery Park Plaza, 7th Floor
New York, NY 10004
Phone: (212) 968-2300
Facsimile: (212) 968-2400

February 22, 2022

VIA ECF and Email (CronanNYSDChambers@nysd.uscourts.gov)

The Honorable John P. Cronan
United States District Court, SDNY
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Storm Damage Solutions, LLC d/b/a Smart Tarp a/a/o Fernando, Inc. d/b/a Valarta Plaza v. Mt. Hawley Insurance Company*
1:22-cv-04020-JPC

Dear Judge Cronan:

Storm Damage Solutions, LLC d/b/a Smart Tarp a/a/o Fernando, Inc. d/b/a Vaalarta Plaza (“Plaintiff”) and Mt. Hawley Insurance Company (“Mt. Hawley”) write jointly to request a stay of the above-referenced matter. Plaintiff, the partial assignee of Fernando, Inc.’s (“Fernando”) rights under a Commercial Property Policy issued by Mt. Hawley, commenced this action for payment of services performed at Fernando’s premises in Pensacola, Florida (the “Property”) following Hurricane Sally. Plaintiff maintains that it repaired damage to the Property caused by a covered cause of loss, and so, Mt. Hawley is obligated under the Policy to pay for that work. Mt. Hawley contends, however, that the damage to the Property was the result of excluded causes of loss, including but not limited to wear and tear, defective construction and/or a lack of maintenance.

Following the completion of written discovery, the parties informed the Court that Fernando, who still holds rights under the Policy, invoked the Policy’s appraisal provision to quantify the physical damage to the Property caused by Hurricane Sally. After significant discussion, the parties agreed to include Plaintiff’s claim in the appraisal process so that an impartial umpire can evaluate and assess the value of the work performed by Plaintiff. The parties have now fully executed an Appraisal Agreement that memorializes their understanding and are in the process of preparing materials to be reviewed by the umpire.

As part of the Appraisal Agreement, the parties agreed to seek a stay of this action pending the outcome of the appraisal award. We therefore respectfully request that the Court stay this

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action until the appraisal process is complete. In the event that litigation is still necessary after the appraisal has been concluded, the parties will prepare an amended case management plan for the completion of the remaining fact discovery (the deposition of one witness from each party) and expert discovery. Alternatively, if the Court is not inclined to stay this action, the parties will agree to a dismissal without prejudice.


We thank the Court for its attention to this matter.

Respectfully submitted,

**VALIENTE CAROLLO &
MCELLIGOTT, PLLC**

CHARTWELL LAW


By: /s/ Matthew McElligott
Matthew McElligott, Esq.

By: 
Matthew Kraus, Esq. (0621)

The request is granted. This case is stayed. All pending deadlines and conferences are adjourned *sine die*. The parties shall file a status update by August 23, 2023. The Clerk of Court is respectfully directed to close the motion pending at Docket Number 34.

SO ORDERED.

Date: February 23, 2023
New York, New York


JOHN P. CRONAN
United States District Judge